

# LOREE & LOREE

ATTORNEYS AT LAW

PHILIP J. LOREE JR.

January 20, 2014

**VIA FAX: 212-805-6382**

Hon. Victor Marrero  
United States District Judge  
United States District Court  
Southern District of New York  
U.S. Courthouse  
500 Pearl Street, Room 660  
New York, NY 10007

USDC SDNY
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**Re: Kolel Beth Yechiel Mechil of Tartikov Inc. v. YLL  
Irrevocable Trust, et. al, No. 11 Civ. 7707 (JM) (KNF)**

Dear Judge Marrero:

We are counsel for defendants YLL Irrevocable Trust and Kochav S.A.R.L. (collectively, "YLL/Kochav") and have filed a notice of appearance earlier today.

We are writing in response to this Court's January 14, 2014 order directing YLL/Kochav to show cause why the Court should not grant plaintiff's motion to confirm the Beth Din panel's Phase II final arbitration award. As contemplated by this Court's Individual Rules, we are transmitting this letter by fax, rather than electronically filing it. YLL/Kochav respectfully requests that the Clerk of the Court make it part of the publicly available record in this case, or to authorize YLL/Kochav to electronically file it.

YLL/Kochav remain firm in their belief that arbitrator Rabbi Kaufman entered in an agreement with Kolel to rule in its favor in Phase I of the arbitration and that the Phase II award should have been vacated on the grounds of evident partiality, corruption and fraud. Arbitration is a matter of consent and parties who agree to it obviously do not consent to fraud, corruption or evident partiality. 9 U.S.C. §§ 10(a)(1), 10(a)(2); *see Wise v. Wachovia Sec.*, 450 F.3d 265, 269 (7<sup>th</sup> Cir. 2006) (Posner, J.).

YLL/Kochav's position before the Second Circuit was not that this Court should have summarily vacated the Phase I award, but only that this Court should have granted it an evidentiary

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hearing given the necessarily factbound nature of YLL/Kochav's vacatur claims. The Second Circuit rejected that argument as did this Court.

Given those rulings, and given that no additional evidence has come to light that would support a meaningful challenge to the Phase II award consistent with those rulings, YLL/Kochav is not going to mount such a challenge, which would, in any event, be futile and counterproductive.

That said, the U.S. Government's widely-publicized, October 2013 arrests of Rabbi Mendel Epstein, Rabbi Martin Wolmark and others on Beth-Din-arbitration related charges of kidnapping and torture in Orthodox and Ultra-Orthodox communities in New York and New Jersey tend, in our view, to lend more credence to the evidence YLL/Kochav adduced in this case. *See, e.g., United States v. Epstein*, No. 3:13-mj-02550-DEA (D. N.J.), Dk. 1 (originally filed under seal on October 7, 2013, and unsealed shortly thereafter). These events became public after the briefing in this Court and in the Second Circuit had been concluded. But the Court may recall that YLL/Kochav's offer-of-proof on its motion for reconsideration referred to, among other things, an affidavit executed by a victim of a kidnapping allegedly perpetrated by arbitrator Rabbi Kaufman and others that bears a disturbing resemblance to the kidnappings the U.S. Government alleges Rabbi Epstein and others carried out.

While these events do not, in and of themselves, add anything material to the evidence and arguments YLL/Kochav has already adduced and made in this case, we mention them solely because they suggest that the possibility of previously unavailable, material evidence pertinent to YLL/Kochav's vacatur claims surfacing may not be as remote as it is in most other cases. Should such evidence become available to YLL/Kochav, and if it provides a good faith, reasonable basis for seeking post-judgment relief under applicable law, then YLL/Kochav would consider pursuing such relief.

But as things currently stand, the proper course is for YLL/Kochav to refrain from attempting to challenge Kolel's application to confirm the Phase II award.

We thank the Court for its attention to this matter.

Sincerely,

  
Philip J. Lorce Jr.

The Clerk of Court is directed to enter into the public record of this action the letter above submitted to the Court by  
The YLL Irrevocable Trust Defendants

SO ORDERED.

1-21-13

DATE

VICTOR MARRERO, U.S.D.J.

January 20, 2014

Hon. Victor Marrero  
United States District Judge  
United States District Court  
for the Southern District of New York

cc: All counsel on the Service List set forth below (by fax and e-mail):

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**FAX COVER SHEET**

TO: Hon. Victor Marrero  
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FROM: Philip J. Loree Jr.

PAGES: 5 (inclusive of cover page and  
attached service list)

PHONE: N/A

DATE: January 20, 2014

RE: Kolel Beth Yechiel Mechiel of  
Tartikov, Inc. v. YLL Irrevocable  
Trust, et. al., Docket No. 11 civ.  
7707 (VM)(KNF)

CC: All Counsel on Attached Service List  
(by Fax and E-Mail)

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Comments:

Dear Judge Marrero,

Attached is the letter the Court directed Defendants YLL Irrevocable Trust and Kochav S.A.R.L. to submit by today's date in the referenced action (see Dk. 96).

Respectfully submitted,



Philip J. Loree Jr.

January 20, 2014

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